

AUG 03 2007

**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2002-376

MICHAEL KEITH McQUIRE
12365 Vivienda Avenue
Grand Terrace, CA 92313

A C C U S A T I O N

Vocational Nurse License No. VN 127311

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs.

2. On or about May 21, 1985, the Board issued Vocational Nurse License
No. VN 127311 to Michael Keith McQuire (Respondent). The Vocational Nurse License
expired on September 30, 2004, and is in delinquent status.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the
following laws. All section references are to the Business and Professions Code unless otherwise
indicated.

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1 "(c) Be convicted of a criminal offense involving possession of any narcotic or
2 dangerous drug, or the prescription, consumption, or self-administration of any of the substances
3 described in subdivisions (a) and (b) of this section, in which event the record of the conviction is
4 conclusive evidence thereof."

5 8. Section 490 of the Code provides, in pertinent part, that the Board may
6 suspend or revoke a license when it finds that the licensee has been convicted of a crime
7 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8 9. California Code of Regulations, title 16, section 2521, states:

9 "For the purposes of denial, suspension, or revocation of a license pursuant to
10 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or
11 act shall be considered to be substantially related to the qualifications, functions or duties of a
12 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
13 licensed vocational nurse to perform the functions authorized by his license in a manner
14 consistent with the public health, safety, or welfare."

15 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
16 request the administrative law judge to direct a licensee found to have committed a violation or
17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
18 and enforcement of the case.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Conviction of Substantially Related Crimes)**

21 11. Respondent is subject to disciplinary action under section 2878,
22 subdivision (f) and 490, in conjunction with California Code of Regulations, title 16, section
23 2521, in that Respondent has been convicted of crimes substantially related to the qualifications,
24 functions or duties of a licensed vocational nurse, as follows:

25 a. On or about August 20, 2002, Respondent was convicted by the Court on
26 a plea of nolo contendere for violating one count of Penal Code section 417, subdivision (a)(1), a
27 misdemeanor (unlawful use of a deadly weapon), in the Superior Court of California, County of

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1 San Bernardino, San Bernardino Judicial District, Case No. FSB034169 entitled *The People of*
2 *the State of California v. Michael Keith McQuire*.

3 b. The circumstances surrounding the conviction are that on or about March
4 29, 2002, Respondent willfully and unlawfully pointed a .38 caliber revolver at another person
5 during an argument.

6 c. On or about November 28, 2001, Respondent was convicted by the Court
7 on a plea of guilty for violating one count of Vehicle Code section 23152, subdivision (a), a
8 misdemeanor (driving a vehicle under the influence of an alcoholic beverage or drug); and one
9 count of Vehicle Code section 23152, subdivision (b), a misdemeanor (driving a vehicle with a
10 blood alcohol level of .08 percent or more), in the Superior Court of California, County of San
11 Bernardino, San Bernardino Judicial District, Case No. TSB107629 entitled *The People of the*
12 *State of California v. Michael Keith McQuire*.

13 d. The circumstances surrounding the conviction are that on or about
14 September 16, 2001, Respondent willfully and unlawfully drove a vehicle while under the
15 influence of an alcoholic beverage and with a blood alcohol level of .21 percent.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Dangerous Use of Alcohol)**

18 12. Respondent is subject to disciplinary action under section 2878,
19 subdivision (a) as defined in section 2878.5, subdivision (b), in that on or about October 25,
20 2001, Respondent used an alcoholic beverage to an extent or in a manner dangerous or injurious
21 to himself, and the public when he operated a vehicle, while under the influence of an alcoholic
22 beverage and a drug and or their combined influence, as set forth in paragraph 11c and 11d
23 above.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Conviction Involving Consumption of Alcohol)**

26 13. Respondent is subject to disciplinary action under section 2878,
27 subdivision (a) as defined in section 2878.5, subdivision (c), in that on or about November 28,
28 2001, Respondent was convicted of a crime involving the consumption of an alcoholic beverage,

1 as set forth in paragraphs 11a and 11b above.

2 PRAYER

3 WHEREFORE, Complainant requests that a hearing be held on the matters herein
4 alleged, and that following the hearing, the Board issue a decision:

5 1. Revoking or suspending Vocational Nurse License No. VN 127311, issued
6 to Michael Keith McQuire;

7 2. Ordering Michael Keith McQuire to pay the Board the reasonable costs of
8 the investigation and enforcement of this case, pursuant to Business and Professions Code
9 section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

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12 DATED: August 3, 2007

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16 TERESA BELLO-JONES, J.D., M.S.N., R.N.
17 Executive Officer
18 Board of Vocational Nursing and Psychiatric Technicians
19 State of California
20 Complainant
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